

CNR No. : DLNT01-006875-2021
SC No. : 436/2021
STATE Vs. SUSHIL KUMAR ETC
FIR No. : 218 /2021
PS : Crime Branch-North Delhi
U/s: 302/307/308/364/365/452/323/342/188/
269/147/148/149/506(II)/392/394/397/411/201/109/120B/34 IPC
U/s 25(1)(B)/27(1)Arms Act

18.05.2023

File taken up today as an application U/s. 439 Cr. P. C for grant of interim bail for a period of six weeks has been moved on behalf of applicant/accused **Ajay Kumar S/o Sh. Suresh Kumar.**

Present: Sh. Himanshu Garg, ld. Addl. PP for the State.
Sh. Sumit Shokeen, ld. counsel for the applicant/accused.
Sh. Anshul Lamba, ld. counsel for the victim/injured Jai Bhagwan @ Sonu.

It is submitted by ld. counsel that applicant/accused has been falsely implicated in the present case and he is in custody since 23.05.2021. He has further submitted that applicant suffered an injury in his right shoulder in the year 2012 and despite the surgery of the same, the applicant is again suffering with the same medical issues in his shoulder. It is further submitted by ld. counsel that due to acute pain in his shoulder and other ailments, both the shoulders of the applicant/accused are now damaged and has blocked almost 80-85% movement of his shoulders and requires immediate surgery/medical treatment. He has further submitted that applicant /accused had been granted interim bail vide order dated 15.02.2022 and 09.06.2022 for the treatment of his shoulder and the medical treatment received by him during interim bail period provided substantial relief in the pain of the applicant. However,

after medical treatment/surgery, the applicant again had severe pain in his shoulders. Ld. counsel further submitted that applicant/accused is a patient of severe Periarthritis and requires periodic surgeries after some months as the shoulder bone is showing abnormal growth which is causing severe pain and restriction in movements.

Ld. counsel further submitted that applicant was sent to Safdarjang Hospital for treatment on 09.05.2023 and 12.05.2023 however, there is no relief in the pain as he has merely been provided with pain killers due to which his condition is deteriorating day by day. He further submitted that yesterday the jail officials have not taken the applicant/accused to the hospital on the ground of non-availability of ambulance.

He further submitted that applicant was informed by the doctors of Safdarjung hospital that immediate Arthroplasty surgery would be required to cure pain however neither any date of surgery was given nor any further course of action was told to the applicant and now the applicant is having severe pain in his shoulders as necessary treatment is not provided by the jail authorities to the applicant. Hence, the applicant wants to get himself treated at a good private hospital at his own cost and has prayed for grant of interim bail to undergo an immediate surgery to get his shoulder operated.

Ld. counsel further submitted that applicant/accused has timely surrendered after expiry of interim bail period and has not violated any condition. He further submitted that the applicant's passport is lying under the custody of the IO and there is no chance of his fleeing. He further submitted that applicant/accused has not

involved in any criminal case in the past and no prejudice would be caused to the complainant, in case the present application is allowed. Hence, he has prayed for grant on interim bail on humanitarian ground.

On other hand, ld. Addl. PP for the State alongwith ld. counsel for the victim/complainant strongly opposed the bail application on the ground that the allegations against the applicant/accused are serious in nature. He further submitted that the case is at the stage of prosecution evidence and material witnesses/victims are yet to be examined and there is every possibility that he may influence the witnesses or tamper with evidence. He has further submitted that the required treatment is being provided to the applicant/accused and there is no requirement of grant of interim bail to the applicant/accused and has prayed for dismissal of the same.

Pursuant to previous order medical status report of applicant/accused has been received from concerned Jail Superintendent.

Heard.

Perusal of the medical status report of applicant/accused shows that the applicant/accused is suffering from severe Arthrities. The jail authority has taken the applicant to the Safdarjung hospital continuously for treatment but despite the urgency of the surgery required by the applicant/accused he has not been operated till date. Considering the fact that the applicant/accused has timely surrendered after the expiry of interim bail and has not misused the liberty of the same and keeping in view the urgency of the operation, on humanitarian ground, **it is ordered that applicant/accused be released on interim bail for a**

period of one week from the date of his release on his furnishing personal bond in the sum of Rs. one Lakh with two sureties in the like amount. The applicant/accused is directed to surrender before the concerned Jail Superintendent immediately after the expiry of period of interim bail and concerned jail superintendent shall send his report immediately thereafter.

Keeping in view the threat perception of the witnesses and also considering the safety and security of the accused himself at least two security personnel shall be present with him round the clock. The entire expenditure of deployment of security persons/policemen for keeping surveillance and security of the applicant/accused shall be borne by the family members of the applicant and the amount will be deposited as per the norms of concerned Jail Rules charges and the said amount be deposited with the concerned Jail Superintendent in advance. He is further directed not to threaten the prosecution witnesses or tamper with evidence or indulge in any such crime. The applicant/accused shall share his phone's live location as and when required by the IO. In case, it is prima facie brought to the notice of the court that the applicant/accused is violating the said conditions, the interim bail granted to him shall be liable to be canceled. The interim bail application is disposed off accordingly. Nothing stated herein shall tantamount to any expression of opinion on the merits of the case.

Interim bail application file be tagged with the main case file.

(Shivaji Anand)
Addl. Sessions Judge: 04 (North)
Rohini Courts: Delhi:18.05.2023^(R)